

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since the lot labeled "Home Delight Brand" was not normally colored and the lot labeled "Ozark Brand" did not consist of whole or large pieces, and the packages or labels did not bear a plain and conspicuous statement as prescribed by the Secretary of Agriculture indicating that it fell below the prescribed standard.

On October 27, 1939, Hargis Cannery, Inc., claimant, having admitted the allegations of the libel, and the court having found that the product was substandard, judgment was entered ordering that it be released under bond for relabeling.

PAUL V. McNUTT, *Administrator*.

**31085. Misbranding of canned cherries. U. S. v. Washington Packers, Inc. Plea of nolo contendere. Judgment of guilty. Fine, \$25 and costs. (F. & D. No. 42797. Sample No. 82617.)**

This product was substandard because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On May 18, 1940, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed an information against the Washington Packers, Inc., Sumner, Wash., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about August 7, 1939, from the State of Washington into the State of Florida, of a quantity of canned cherries that were misbranded. The article was labeled in part: "Inavale Brand Water Pack Red Sour Pitted Cherries."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since it contained more than 1 pit per each 20 ounces of net contents and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On August 30, 1940, the defendant entered a plea of nolo contendere, was adjudged guilty, and was fined \$25 and costs.

PAUL V. McNUTT, *Administrator*.

**31086. Misbranding of canned peas. U. S. v. 100 Cases of Canned Peas (and 4 other libels against canned peas). Decrees of condemnation providing for release of product under bond for the purpose of relabeling. (F. & D. Nos. 45554, 45556, 45557, 45560, 45573. Sample Nos. 69278-D, 69279-D, 69280-D, 69090-D, 74035-D.)**

This product was substandard because the peas were not immature, and the label did not indicate that it was substandard.

Within the period from on or about August 23 to on or about October 31, 1939, the United States attorney for the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed libels against 100 cases of canned peas at Revere, Mass., 177 cases at Worcester, Mass., 175 cases at Boston, Mass., and 148 cases at New Bedford, Mass., alleging that the article had been shipped in interstate commerce in violation of the Food and Drug Act as amended, within the period from on or about July 6 to on or about August 24, 1939, by Bruder & Zweil, Inc., from Providence, R. I.; and charging that it was misbranded. The article was labeled in part variously: "Admiration Selected Early June Peas \* \* \* Edwin Smithson Company Incorporated, Distributors, New York"; J. M. Berry Brand Early June Peas \* \* \* The H. J. McGrath Co., Baltimore, Md., U. S. A. Distributors"; "Ma-Son Early June Peas \* \* \* Robert W. Mairs & Co., Distributors, Baltimore, Md."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since the peas were not immature, and its package or label did not bear a plain and conspicuous statement as prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On October 23, 1939, and January 12, 1940, the libels filed against the lots seized at Boston, Revere, and Worcester, Mass., having been consolidated and Bruder & Zweil, Inc., having appeared as claimant in the consolidated action and also in the action involving the goods seized at New Bedford, Mass., and claimant having admitted the allegations in all libels, judgments of condemnation were entered and it was ordered that the product be released under bond conditioned that it be relabeled to show its true nature.

PAUL V. McNUTT, *Administrator*.